

Resolution No.:	<u>16-676</u>
Introduced:	<u>July 29, 2008</u>
Adopted:	<u>July 29, 2008</u>

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: To authorize Montgomery County, Maryland, pursuant to and in accordance with Chapter 20 of the Montgomery County Code (2004 Edition, as amended) to issue its revenue bonds in a principal amount not to exceed \$78,000,000 in order to finance or refinance the costs of (a) certain facilities for the Department of Liquor Control and (b) certain transportation projects; to make certain findings with respect to the issuance of such bonds and the construction of such facilities and projects; to provide that the bonds shall be sold on a competitive basis; to provide that the County Executive and other County officials shall take all necessary, proper or expedient action to effect the issuance, sale and delivery of the bonds; and generally to provide for and determine various matters in connection with the bonds.

Background

1. Pursuant to the provisions of Title 15 of Article 2B of the Annotated Code of Maryland (2005 Replacement Volume and 2007 Supplement), there has been established the Montgomery County Department of Liquor Control (the "Department") to operate facilities for the wholesale and retail distribution of alcoholic beverages in Montgomery County, Maryland (the "County").
2. Pursuant to the provisions of Chapter 49 of the Montgomery County Code (2004 Edition, as amended), the County conducts and supervises the planning, design, and construction of transportation facilities in the public right-of-way.
3. Sections 5(P)(2) and 5(P)(3) of Article 25A of the Annotated Code of Maryland (2005 Replacement Volume and 2007 Supplement) and Sections 20-47 through 20-54 of Chapter 20 of the Montgomery County Code (2004 Edition, as amended) (collectively, the "Revenue Bond Act") authorize the issuance from time to time of revenue bonds or other obligations of the County, payable as to principal, interest, and premium, if any, only from the funds or revenues received from or in connection with any project, all or part of which is financed from the proceeds of revenue bonds or other obligations.

4. The County has determined that it is advisable and in the public interest to (a) design, construct and equip the Southlawn Warehouse for the use of the Department, as previously approved in the Department's operating budget (collectively, the "DLC Projects"), and (b) participate in the funding of certain transportation projects to be undertaken by the State of Maryland and the Washington Metropolitan Area Transit Authority, as previously approved as Projects #500722 and #500552, each as further described in the County's Approved FY09-14 Capital Improvements Program (collectively, the "Transportation Projects" and, together with the DLC Projects, the "Projects").
5. The County has determined that it is advisable and in the public interest to issue and sell its revenue bonds (the "Bonds") as "revenue bonds" (as defined in the Revenue Bond Act) to finance or refinance the "costs of the project" (as defined in the Revenue Bond Act) of the Projects, each of which constitutes a "project" within the meaning of the Revenue Bond Act.
6. The Director of Finance of the County has recommended that the Bonds be sold on a competitive basis to the bidder offering the lowest true interest cost to the County.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

Section 1. The County hereby finds and determines that:

- a. Each of the DLC Projects is a "project" within the meaning of the Revenue Bond Act.
- b. Each of the Transportation Projects is a "project" within the meaning of the Revenue Bond Act.
- c. It is advisable and in the public interest to complete the Projects.
- d. It is advisable and in the public interest to finance or refinance the costs of the Projects through the issuance, sale and delivery of the Bonds.

Section 2. The County hereby authorizes the issuance, sale and delivery of the Bonds in a principal amount not to exceed Seventy-eight Million Dollars (\$78,000,000). The Bonds shall be issued and sold in accordance with the provisions of the Revenue Bond Act.

Section 3. The Bonds shall not constitute a pledge of the full faith and credit and unlimited taxing power of the County.

Section 4. The County hereby covenants that the timely payment of the principal of and interest on the Bonds issued to finance or refinance the Projects shall be secured equally and ratably by the net revenues of the Department (the "Net Revenues") without priority by reason of number or time of sale or delivery; and the Net Revenues are hereby irrevocably pledged to the timely payment of both principal, premium (if any) and interest on the Bonds issued to finance the Projects as set forth in executive orders of the County Executive passed subsequent to the adoption of this Resolution.

Section 5. The Bonds may be sold at private negotiated sale or at public competitive sale, as determined by the County Executive in his sole and absolute discretion, by executive order or otherwise. The County Executive is hereby authorized to select underwriters and dealers with respect to the Bonds in such manner as he, in his sole and absolute discretion, by executive order or otherwise, deems to be in the best interest of the County. The County Executive is hereby authorized to cause to be prepared and distributed a preliminary official statement and a final official statement respecting the Bonds. The Bonds shall be designated, dated, bear interest at such rate or rates, be in such denominations, be payable at such times and at such places, mature in such amounts and on such dates, be subject to prepayment prior to their maturity, and be executed and sealed in such manner as the County Executive, in his sole and absolute discretion, shall determine, by executive order or otherwise. The County Executive may determine, by executive order or otherwise, in his sole and absolute discretion, to issue the Bonds in one or more series from time to time in an aggregate principal amount not to exceed the amount authorized by this Resolution.

Section 6. The County Executive may, by executive order or otherwise, approve the form and provisions of, execute and deliver the Bonds, and specify, prescribe, determine, provide for, approve, execute and deliver (where applicable) such other matters, details, forms, documents, or procedures, including (without limitation), bond purchase agreements, lines of credit, liquidity facilities, bond insurance agreements and trust agreements, as are necessary, proper or expedient to consummate the authorization, sale, security, issuance, delivery or payment of or for the Bonds, including (without limitation) prescription of covenants relating to the operation of the Department.

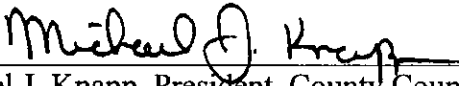
Section 7. It is hereby acknowledged that the Bonds may be issued initially in a variable interest rate mode. It is hereby further acknowledged that it may be in the best interests of the County at some future date to convert the Bonds from a variable interest rate to a fixed interest rate. To accommodate such conversion, the County hereby authorizes the issuance, sale and delivery of additional bonds (the "Additional Bonds") for the sole and exclusive purpose of refinancing the Bonds; provided, that in no event shall the aggregate principal amount of Bonds and Additional Bonds outstanding at any one time exceed Seven-eight Million Dollars (\$78,000,000). The Additional Bonds shall be issued and sold in accordance with the provisions of the Revenue Bond Act and of this Resolution, as if such Additional Bonds were Bonds.

Section 8. The County hereby covenants that it will take, or refrain from taking, any and all actions necessary to comply with the provisions of Section 103 and Sections 141 through 150, inclusive, of the Internal Revenue Code of 1986 as amended (the "Code"), applicable to the Bonds in order to preserve the status of the interest on the Bonds as excluded from gross income for Federal income tax purposes. Without limiting the generality of the preceding sentence, the County will (a) not use or permit the use of any of the proceeds of the Bonds in such manner as would cause the interest on the Bonds to be included in gross income for Federal income tax purposes, (b) make periodic determinations of the rebate amount and timely pay any rebate amount, or installment thereof, to the United States of America, and (c) prepare and timely file Internal Revenue Service Form 8038-G, Information Return for Tax-Exempt Governmental Obligations, or any successor or additional form required by the Internal Revenue Service.

Section 9. The members of the County Council, the County Executive, the Chief Administrative Officer of the County, the Director of Finance of the County, the County Attorney, and the Clerk of the County Council, for and on behalf of the County, are hereby authorized and empowered to do all things, execute all instruments, and otherwise take all such action as the County Executive may determine, by executive order or otherwise, to be necessary, proper or expedient to carry out the authority conferred by this Resolution, including (without limitation) the execution of certificates of the County, elections, statements and reports pursuant to applicable provisions of the Code and the U.S. Treasury Regulations prescribed thereunder, subject to the limitations set forth in the Revenue Bond Act and this Resolution.


Section 10. The provisions of this Resolution shall constitute a contract between the County and the holder or holders of the Bonds, and after the issuance of the Bonds no change, variation or alteration of any kind in the provisions of this Resolution shall be made in any manner, except as the County Executive, by executive order or otherwise, shall provide, until such time as the Bonds, and interest due thereon, shall have been satisfied and discharged as provided by the County Executive, by executive order or otherwise, prior to such issuance.

Section 11. This Resolution shall take effect upon approval of the President for the County Council.


Michael J. Knapp, President, County Council

31 JUL 08
Date

This is a correct copy of Council action.


Linda M. Lauer
Clerk of the Council